

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

MICHAEL EUGENE HAYNES

PLAINTIFF

VS.

CIVIL ACTION NO. 5:18-cv-38-DCB-MTP

MARCUS PICKETT

DEFENDANT

ORDER ADOPTING REPORT AND RECOMMENDATION

This cause is before the Court on United States Magistrate Judge Michael T. Parker's Report and Recommendation (**docket entry 200**), and for case-management purposes.

This case was filed on April 23, 2018, and Defendant Marcus Pickett remains unserved and has not appeared in this matter. The Marshals attempted service on Defendant Pickett on October 15, 2019, and October 31, 2019, but the summonses were returned unexecuted because the address of record is now an empty lot.

On December 3, 2019, Magistrate Judge Parker directed the Plaintiff to provide an address where Defendant Pickett could be served. The Plaintiff did not comply, and the Magistrate Judge again directed the Plaintiff to provide an address for Defendant Pickett on January 2, 2020. The Plaintiff responded on January 27, 2020, that he had been unable to find an address for Defendant Pickett.

Special rules govern the procedure for service of process in cases filed by plaintiffs proceeding in forma pauperis. (Plaintiff Haynes is proceeding in forma pauperis). The officers of the court shall issue and serve all process, and perform all duties in in forma pauperis cases. At the plaintiff's request, the court may order that service be made by a United States marshal or deputy marshal or by a person specially appointed by the court. The court must so order if the plaintiff is authorized to proceed in forma pauperis. Once the in forma pauperis plaintiff has identified the defendants, "the court is obligated to issue plaintiff's process to a United States Marshal who must in turn effectuate service upon the defendants." If the failure to properly serve a defendant is due to any fault of the plaintiff, he is not entitled to rely on the U.S. Marshals. Further, if the plaintiff is made aware of possible defects in service of process, he must attempt to remedy them.

The Plaintiff has not provided an address for Defendant Pickett as directed by the Court. Considering the advanced age of this case, the Plaintiff's failure to provide an address for service of process for Defendant Pickett, and this court's previous warning to Plaintiff that it was his responsibility to prosecute this matter, the Court adopts the recommendation of Magistrate Judge Parker that Defendant Marcus Pickett be dismissed from this action without prejudice.

ACCORDINGLY,

IT IS HEREBY ORDERED that Defendant Marcus Pickett is
DISMISSED from this action WITHOUT PREJUDICE.

SO ORDERED, this the 14th day of May, 2020.

David Bramlette_____

UNITED STATES DISTRICT JUDGE